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Attorneys for Plaintiff  
 ELAN MICROELECTRONICS CORPORATION

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

ELAN MICROELECTRONICS  
 CORPORATION,

Plaintiff,

v.

APPLE, INC.,

Defendant.

Case No.

**COMPLAINT FOR PATENT  
 INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

Plaintiff Elan Microelectronics Corporation ("Elan") hereby complains against defendant Apple, Inc. ("Apple") and alleges as follows:

**PARTIES**

1. Elan is a corporation organized and existing under the laws of Taiwan, R.O.C. with a place of business at No. 12, Innovation 1st Road, Science Based Industrial Park, Hsinchu Taiwan R.O.C.
2. Elan is the owner of all right and title to United States Patent No. 5,825,352 ("the '352 patent") entitled "Multiple Finger Contact Sensing Method for Emulating Mouse Buttons and Mouse Operations on a Touch Sensor Pad."

3. Elan is the owner of all right and title to United States Patent No. 7,274,353 (“the ‘353 patent”) entitled “Capacitive Touchpad Integrated With Key and Handwriting Functions.”

4. Upon information and belief, Defendant Apple is a corporation organized under the laws of the State of California and has its principal place of business at 1 Infinite Loop, Cupertino, CA 95014 and is doing business in this judicial district.

## JURISDICTION AND VENUE

5. This is a patent infringement action arising under the patent laws of the United States, 35 U.S.C. §1, *et seq.* This Court has jurisdiction over the subject matter under 28 U.S.C. §§1331 and 1338(a).

6. Venue is appropriate in this district under 28 U.S.C. §§1391(b) and 1400(b) because defendant Apple resides in this district, has a regular place of business in this district and has committed acts of patent infringement in this district.

## THE DISPUTE

7. Elan is a worldwide leader in the research and development of products that enable Smart Human-Machine Interface (“HMI”) solutions. Such solutions include Elan’s capacitive touchpads and transparent touchpads, such as its Smart-Pad – the Magic of Multifinger™ which incorporate Elan’s proprietary eFinger™ and eStylus™ technologies. Elan and its predecessors pioneered the use of touchpad gestures involving multiple simultaneous finger touches for input devices, and touchscreens that easily switch between key and handwriting input modes.

8. Various multi-finger applications have been implemented in computer laptops, mobile phones and digital media players. The '352 patent is a fundamental patent to the detection of multiple fingers on a touchpad or touch-sensitive input device to enable the detection and use of multi-finger gestures in various applications. The invention of the '352 patent is embodied in Elan's Capacitive Touchpad Multi-Finger Solution.

9. Apple designs, markets and sells computer and consumer electronics products including capacitive finger sensing input devices. These include at least the Apple iBook, PowerBook and MacBook portable computers, iPhone “smart” mobile phones and iPod Touch digital media player devices. Each of these devices includes a touch-sensitive input device capable of detecting the

1 simultaneous presence of two or more fingers or other capacitive objects using the structure and  
 2 methods claimed in the '352 patent. Apple has been on notice of its infringement of the '352 patent  
 3 since early 2007 and has continued to utilize the '352 patent invention without authorization. In  
 4 addition, the Apple iPhone and iPod Touch also permit users to switch the capacitive touchscreen  
 5 between keyboard and handwriting modes, and thus fall within the scope of the '353 patent.

### 6 **FIRST CLAIM**

#### 7 **(Infringement - 35 U.S.C. § 271)**

8 10. Plaintiff repeats and re-alleges Paragraphs 1 through 9 immediately above.

9 11. Apple is now and has been directly and/or indirectly infringing the '352 patent by the sale  
 10 of at least its iBook, MacBook, iPhone and iPod Touch products in this district and elsewhere in the  
 11 United States.

12 12. As a result of Apple's infringement, Apple is liable to Elan for damages pursuant to 35  
 13 U.S.C. §284.

14 13. Apple's infringement of the '352 patent has caused, and unless preliminarily and  
 15 permanently enjoined, will continue to cause Elan irreparable harm.

16 14. Apple's infringement of the '352 patent is and has been willful.

17 15. As a result of at least Apple's willful infringement this is an exceptional case pursuant to  
 18 35 U.S.C. §285.

### 19 **SECOND CLAIM**

#### 20 **(Infringement – 35 U.S.C. §271)**

21 16. Plaintiff repeats and re-alleges Paragraphs 1 through 15 immediately above.

22 17. Apple is now and has been directly and/or indirectly infringing the '353 patent by the sale  
 23 of its iPhone and iPod Touch products in this district and elsewhere in the United States.

24 18. As a result of Apple's infringement, Apple is liable to Elan for damages pursuant to 35  
 25 U.S.C. §284.

26 19. Apple's infringement of the '353 patent has caused and, if not enjoined, will continue to  
 27 cause Elan irreparable harm.

28 20. On information and belief, Apple's infringement of the '353 patent is and has been

1 willful.

2 21. As a result of at least Apple's willful infringement this is an exceptional case pursuant to  
3 35 U.S.C. §285.

4 **PRAYER FOR RELIEF**


5 WHEREFORE, Elan prays for judgment:

- 6 1. that Apple infringes, directly and/or indirectly, one or more claims of the '352 patent;  
7 2. that Apple infringes, directly and/or indirectly, one or more claims of the '353 patent;  
8 3. that Apple be temporarily and permanently enjoined from any further infringement;  
9 4. that Apple is liable to Elan for monetary damages, no less than a reasonable royalty;  
10 5. for enhanced damages up to treble Elan's actual damages;  
11 6. that this is an exceptional case and therefore that Apple pay Elan's costs, expenses and  
12 attorneys fees incurred in this matter; and  
13 7. granting such other and further relief as the Court may deem just and appropriate.

14  
15 Dated: April 7, 2009

Respectfully submitted,

16 ALSTON + BIRD LLP

17 By:   
18 Sean P. DeBruine

19 Attorneys for Plaintiff  
20 ELAN MICROELECTRONICS CORPORATION  
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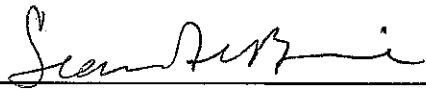
**DEMAND FOR JURY TRIAL**

Plaintiff Elan Microelectronics Corporation hereby demands a jury trial for all issues so triable.

Dated: April 7, 2009

Respectfully submitted,

ALSTON + BIRD LLP

By:   
Sean P. DeBruine

Attorneys for Plaintiff  
ELAN MICROELECTRONICS CORPORATION

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